

EXTENSION OF NONDISCRIMINATORY TREATMENT
(MOST-FAVORED-NATION TREATMENT) TO MONGOLIAN
PEOPLE'S REPUBLIC

OCTOBER 22, 1991.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.J. Res. 281]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the joint resolution (H.J. Res. 281) approving the extension of nondiscriminatory treatment with respect to the products of the Mongolian People's Republic, having considered the same, report favorably thereon and recommend that the joint resolution do pass.

BACKGROUND AND SUMMARY, INCLUDING REASONS FOR CHANGE

The political and economic landscape of Mongolia has changed dramatically during the past two years. Popular demonstrations for reforms took place in December 1989, following similar demonstrations in other communist-controlled countries, and the first organized opposition party was created that same month. Elections were held in July 1990, and five political parties have been included in the government. According to observers from human rights monitoring groups and the U.S. and third country governments, the elections were free and fair. All political parties have their own newspapers, with free expression of views permitted.

The dramatic political changes marked the beginning of Mongolia's efforts to develop a market economy and shift its trade toward the West, away from its previously heavy orientation toward the Soviet Union. Mongolia is seeking foreign investment and aid from the West, to assist in the development of a market-based economy.

The new Mongolian government has liberalized travel and emigration policies and procedures, and a law to codify these practices

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is under consideration by the legislature. The government has pledged to administer its emigration policies on the basis of international legal norms. Substantial improvements also have taken place in freedom of religion; activities by major religious groups have been resumed.

On January 23, 1991, the President for the first time waived the application of sections 402(a) and (b) of Title IV of the Trade Act of 1974 with respect to Mongolia, upon a determination that such a waiver would substantially promote the Act's objectives relating to freedom of emigration. The waiver made Mongolia eligible immediately for U.S. Government credits, credit guarantees, and investment guarantees. A bilateral trade agreement, signed in Washington on January 23, 1991, was negotiated under authority of Title IV, along with side letters relating to Mongolia's interest in receiving benefits under the Generalized System of Preferences (GSP); Mongolian pledges on procedures for establishing government commercial representations; and the promotion of tourism and travel-related trade and investment. The agreement is described in greater detail below. The agreement and the side letters were submitted formally to the Congress for its consideration on June 25, 1991 (H.Doc. 102-104). A joint resolution approving the extension of most-favored-nation (MFN) treatment to the products of Mongolia (H.J. Res. 281) was introduced on the same day.

The purpose of H.J. Res. 281 is to approve the extension of MFN status to the Mongolian People's Republic, subject to annual renewal by the President under the terms of Title IV. The Committee strongly supports the granting of nondiscriminatory trade treatment to the products of Mongolia, in order to aid in the transition of that country from a centralized to a market-oriented economy. It is the judgment of the Committee that granting MFN status to Mongolia is unlikely to have a substantial impact on U.S. imports. U.S. imports from Mongolia in 1990 totalled \$2 million and consisted primarily of animal fibers and vegetable oils. U.S. exports to Mongolia in 1990 were negligible.

Description of agreement

The U.S.-Mongolian trade agreement contains numerous provisions designed to facilitate two-way trade between the two countries. The agreement provides that the United States and Mongolia will accord MFN treatment to the products of the other and also will accord to the other's products MFN treatment with respect to the allocation of and access to currency needed to pay for such imports. The agreement obligates each country to maintain a "satisfactory balance of market access opportunities," taking into account such factors as tariffs and nontariff barriers. Under the agreement, trade between the two countries is to be conducted by means of contracts concluded as exercises of independent commercial judgment on the basis of nondiscrimination and customary commercial considerations. In addition, neither country will require or encourage barter or countertrade.

Additional provisions in the agreement are designed to promote trade and facilitate transactions between the two countries. Included in the agreement are measures that:

- (a) Facilitate the holding of trade promotions events;

(b) Permit the establishment of government commercial offices;

(c) Ease the establishment of private "commercial representations," the direct hire of employees, importation of office equipment, access to office space and living accommodations, employment of agents and distributors, the stocking and distribution of samples and replacement parts, advertising and market research;

(d) Improve the transparency of laws and regulations that affect trade, investment and other commercial matters;

(e) Require that trade between the two countries be conducted in U.S. dollars or other convertible currencies, unless the parties to individual transactions agree otherwise; bind the countries not to restrict the export of convertible currencies or deposits obtained in connection with trade in goods and services; and require the parties to provide nondiscriminatory treatment with respect to a range of financial transactions;

(f) Provide adequate and effective protection of, and enforcement for, intellectual property, with extensive detail on the terms of such protection and enforcement;

(g) Provide procedures for market disruption safeguards and the settlement of disputes, including guarantees that companies and nationals of each country will have access to the other's courts and administrative bodies; and

(h) Establish a Joint Commercial Commission to review the operation of the agreement and settle disputes promptly.

In addition, three side letters were negotiated between the two countries, which form an integral part of the trade agreement. The letters relate to Mongolia's interest in receiving benefits under the Generalized System of Preferences (GSP); Mongolian pledges on procedures for establishing government commercial representations; and the promotion of tourism and travel-related trade and investment.

COMMITTEE ACTION

H.J. Res. 281 was introduced on June 25, 1991, at the request of the Administration by Representatives Gephardt and Michel and was referred to the Committee on Ways and Means. The resolution subsequently was referred to the Subcommittee on Trade. The Subcommittee requested public comments on the resolution and the trade agreement with Mongolia (WMCP: 102-18). Public comment favored the implementation of the agreement. On July 11, 1991, the Subcommittee ordered H.J. Res. 281 favorably reported to the full Committee on Ways and Means, without amendment, by voice vote. On October 22, 1991, the Committee on Ways and Means ordered H.J. Res. 281 favorably reported to the House of Representatives without amendment. (Under the terms of Title IV of the Trade Act of 1974, the resolution is not subject to amendment.)

SECTION-BY-SECTION ANALYSIS AND COMPARISON WITH PRESENT LAW

Present law

Title IV of the Trade Act of 1974 (the so-called Jackson-Vanik amendment), as amended by the Customs and Trade Act of 1990,

sets forth three requirements relating to freedom of emigration which must be met, or waived by the President, in order for the President to grant nondiscriminatory, MFN status to a nonmarket economy country. Title IV also requires that a trade agreement providing MFN status remain in force between the United States and the nonmarket economy country receiving MFN status; and it sets forth minimum provisions which must be included in such an agreement.

Sections 405(c) and 407(c) of the Trade Act, as amended, provide that a trade agreement, and a Presidential proclamation granting MFN status, shall take effect only after enactment of a joint resolution of approval. Such a resolution is subject to the fast-track implementing procedures of the House and Senate under section 151 of the Act, as amended. Under these procedures, the House and Senate have a maximum of 90 legislative days to enact a joint resolution of approval; and the resolution is not subject to amendment.

Explanation of provision

Mongolia has never been granted MFN status under the authority of Title IV. H.J. Res. 281 states that the Congress approves the extension of nondiscriminatory treatment to the products of the Mongolian People's Republic transmitted by the President to the Congress on June 25, 1991.

OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

Vote of the committee in reporting the resolution

In compliance with clause (2)(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the resolution. H.J. Res. 281 was ordered favorably reported without amendment by the Committee, by voice vote.

Oversight findings

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee has concluded a review of U.S. trade relations with Mongolia, based on public comments received on H.J. Res. 281. This review included the question of whether to extend MFN status to Mongolia. All public comments were supportive of extending such status to Mongolia. The Committee received no negative comments. On the basis of that review, the Committee has concluded that extension of MFN status to Mongolia would serve U.S. and Mongolian interests and help promote the transition of Mongolia to a democratic, market-oriented economy.

With respect to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the resolution.

Budgetary authority and cost estimates, including estimates of the Congressional Budget Office

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that there are no tax expenditures or new budgetary authority providing financial assistance to State and local governments in the resolution.

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee agrees with cost estimates furnished by the Congressional Budget office on H.J. Res. 281 and required to be included herein:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 9, 1991.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.J. Res. 281, a joint resolution approving the extension of most-favored-nation (MFN) status to the Mongolian People's Republic, as marked up by the Trade Subcommittee of the House Committee on Ways and Means on July 11, 1991. The CBO estimates that extending MFN status to Mongolia would cause a negligible reduction in federal government revenues in fiscal year 1992.

Under Title IV of the Trade Act of 1974, MFN status may not be conferred on a country with a nonmarket economy if that country maintains restrictive emigration policies. Because of this stipulation, Mongolia does not currently qualify for MFN status. Under present law, however, the President may waive this prohibition on an annual basis if he certifies that granting MFN status would promote freedom of emigration in that country. The President first waived this stipulation on January 23, 1991.

On June 3, 1991, the President notified Congress of his intention to extend the waiver of the application of Title IV of the Trade Act of 1974 with respect to Mongolia for one year. On June 25, 1991, the President transmitted to Congress the trade agreement according MFN status to Mongolia. H.J. Res. 281 approves the extension of MFN status to Mongolia. Granting Mongolia MFN status would result in a loss of customs duties because imports from Mongolia would be subject to lower tariff rates. The CBO assumes that the trade agreement between the United States and Mongolia would be implemented in fiscal year 1992 and estimates that the reduction in federal customs duties would be negligible.

H.J. Res. 282 would affect receipts and thus would be subject to pay-as-you-go procedures under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. As a result, the estimate required under clause 8 of House Rule XXI also is attached.

PAY-AS-YOU-GO CONSIDERATIONS

(By fiscal year, in millions of dollars)

	1992	1993	1994	1995
Changes in outlays.....	(¹)	(¹)	(¹)	(¹)
Changes in receipts.....	(²)	0	0	0

¹ Not applicable.² Revenue loss of less than \$500,000.

If you wish further details, please feel free to contact me or your staff may wish to contact John Stell of the Tax Analysis Division at 226-2720.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE ESTIMATE ¹

The applicable cost estimate of this Act for all purposes of section 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

	1992	1993	1994	1995
Changes in outlays.....	(¹)	(¹)	(¹)	(¹)
Changes in receipts.....	0	0	0	0

¹ Not applicable.

INFLATIONARY IMPACT

With respect to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the committee states that H.J. Res. 281 would not have an inflationary impact on prices and costs in the operation of the general economy.

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¹ An estimate of H.J. Res. 281, as marked up by the Trade Subcommittee of the House Committee on Ways and Means on July 11, 1991. This estimate was transmitted by the Congressional Budget Office on September 9, 1991.